1 STUART HANLON, CSBN: 66104 SARA RIEF, CSBN: 227279 2 Law Office of Hanlon & Rief 1663 Mission, 2<sup>nd</sup> Floor 3 San Francisco, CA 94103 Telephone: (415) 864-5600 4 Facsimile: (415) 865-0376 Email: stuart@stuarthanlonlaw.com 5 Attorneys for Defendant 6 VICTOR TURK 7 IN THE UNITED STATES DISTRICT COURT 8 FOR THE NORTHERN DISTRICT OF CALIFORNIA 9 SAN FRANCISCO DIVISION 10 UNITED STATES OF AMERICA. No. CR 18-463 CRB 11 Plaintiff, **DEFENDANT'S SENTENCING** 12 MEMORANDUM VICTOR TURK, 13 Defendant. 14 15 16 17 **DEFENDANT'S SENTENCING MEMORANDUM** 18 Mr. Turk submits the following memorandum to address the presentence report and the 19 factors supporting a variance under 18 U.S.C. §3553. 20 On September 27, 2018, a two-count Indictment was filed charging Mr. Turk with a 21 violation of 21 U.S.C. §§ 846, 841(a)(1), (b)(1)(B)- Possession with Intent to Distribute 50 22 Grams or More of Methamphetamine; 18 U.S.C. § 924(c)(1)(A)- Carrying or Possessing a 23 Firearm During and in Furtherance of a Drug Trafficking Crime; and criminal forfeiture. 24 Mr. Turk and the government reached a plea agreement in this case. Mr. Turk pled guilty 25 to both counts and agreed to forfeiture as described in the plea agreement. The Presentence 26 Report calculates Mr. Turk as a Criminal History Category VI and determined the Sentencing 27 Guideline Range in Count One to be of 77 months to 96 months. Mr. Turk agrees to these

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 calculations. Probation recommends a variance from the Sentencing Guidelines to the mandatory minimum of ten years.

The presentence report supports a variance from the Sentencing Guidelines based on his recent diagnosis of bipolar, anxiety and depression; his drug use and serious, untreated addiction; and, lastly, his commitment to positive programs in custody and upon release.

Mr. Turk supports and appreciates the recognition by probation that there are numerous factors that warrant a below guideline sentence and Mr. Turk asks that this Court follow probation's recommendation.

### DISCUSSION

### I. 18 USC § 3553(a)

The Sentencing Guidelines alone do not take into consideration each defendant as an individual and that each case as its own unique set of circumstances. Whether it is looking to a defendant's background, the reasons and motivations for committing the crimes, the specific facts of the case, or many other factors, the Guidelines do not address these issues. In order to ensure a sentence that is sufficient, but not greater than necessary, 18 U.S.C. §3553(a)(1), directs courts to consider (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (3) the kinds of sentences available; (4) the kinds of sentences and the sentencing range established for the offense under the Guidelines; (5) any pertinent policy statements issued by the Sentencing Commission; (6) the need to avoid unwanted sentencing disparities among defendants with similar records who have been found guilty of similar conduct; and (7) the need to provide restitution to any victims of the offense.

This Court should grant a downward variance pursuant to 18 U.S.C. § 3553(a)(1) based on several variances including recent mental health diagnoses and treatment, lengthy drug addiction without significant treatment and his commitment to programing while in custody and upon release.

### II. <u>DEFENDANT'S BACKGROUND</u>

Mr. Turk is 43 years old. He was raised by his mother who was a single parent trying

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to raise Mr. Turk and his siblings in the Bay Area working as a bartender. Several times during his childhood, Mr. Turk witnessed domestic violence which, to this day, has stuck with him. During his presentence interview, Mr. Turk became emotional describing a time when he very young- around eight years old- when his Mom's boyfriend came to the house. Mr. Turk answered the door and allowed him in the house where he proceeded to assault his Mom. Mr. Turk continues to harbor guilt that, because he let him in the house, it was his fault that his mother was beaten.

At the age of 17, Mr. Turk became a father. Young, scared and not in a healthy relationship with the mother of his child, Mr. Turk left the state and went to live with his father. Eventually, Mr. Turk did return to California and, to this day, has a very close relationship with his son who has provided a letter for this Court. (See Exhibit A: Character Letters.) Unfortunately, also around this time, when he was 19 years old, Mr. Turk began using methamphetamine regularly/daily which has resulted in several convictions/incarcerations, lost jobs, and the very lengthy sentence he faces in this case.

It is evident in the attached character letters that, those that know him, all see the giving and kind-hearted person he is at his core. The letters reference the hardworking and positive person Mr. Turk is when he is not under the influence of drugs or in the throes of his drug addiction. They express Mr. Turk's desire to always help others and his innate kindness. *Id*.

### III. FACTS OF THE CASE

Mr. Turk was stopped in the Tenderloin area for parking in a red zone. The passenger of the car was arrested on an outstanding warrant and, when Mr. Turk exited the car, the police located a glass pipe and firearm under the seat. Methamphetamine, along with a scale and baggies, were also located in the car.

### IV. DRUG ADDICTION

Mr. Turk has been addicted to methamphetamine since he was 19 years old. He has also, at various times in his life, used cocaine daily as well as experimented with other drugs. Despite a criminal history that is indicative of a serious drug addiction, Mr. Turk has had very minimal drug treatment over the past twenty-plus years. His only real treatment was a one month

outpatient program in 2011 while under parole supervision. As noted in the presentence report, Mr. Turk is aware that his use of methamphetamine has caused him the "most problems." This case is a direct result of his addiction. Mr. Turk was on parole and doing quite well-working for a towing company and conducting programming for other parolees (see below discussion). However, as soon as he "fell off the wagon", his life spiraled out of control. He lost his job and began selling to pay for his habit and living expenses. Without the tools in hand to help him remain sober or make it through a relapse, Mr. Turk could not fight the addiction. Mr. Turk understands that his addiction is the root of his problems and that he must do everything in his power moving forward to remain sober. Mr. Turk has asked that this Court recommend that he enroll in RDAP while he is incarcerated even though, because of his gun conviction, he will receive no additional credits. This speaks volumes to his commitment to

treatment.

V. MENTAL HEALTH

Mr. Turk's drug use has likely been significantly driven by self-medicating for mental health issues. When incarcerated by the state in this matter, he was provided mental health treatment and diagnosed with bipolar, depression and anxiety. This is the first time in his life that he has been diagnosed, received treatment and been medicated. Prior to the federal government indicting this case, Mr. Turk was set, through the proposed resolution in his state case, to enter a dual diagnosis program to address his mental health issues and drug addiction. Though unable to do this program once it became a federal case, it should be noted that Mr. Turk continues to be compliant in his medications and recently was given further assessment and increases in dosage. Mr. Turk understands that he feels better on these medications and needs them as part of his recovery. This kind of support has been life changing for him as far as his ability to see that his feelings and mental health can be altered with the proper treatment.

Mr. Turk has been able to remain sober for periods of time and, when he is sober, he maintains employment and is focused on bettering himself and others.

### VI. POST-ARREST/INCARCERATION REHABILITATION

While it is acknowledged that this is not the "typical" post-arrest (or, here, also

 post-incarceration) rehabilitation this Court may see, Mr. Turk has shown both now, and in the past, that he has it in him to make good decisions and get on the right path, it is really the lack of tools to avoid relapse that have continued to keep him in this cycle.

For example, and very telling, when Mr. Turk was incarcerated in state prison just prior to this case, he was very involved in "M.A.N.U.P.", a program that began in state prison with the vision of men helping themselves through self-help. Mr. Turk, as noted in his CDC Chrono write-ups, became very proactive in this program becoming a conductor and dedicated many hours. (See Exhibit B: M.A.N.U.P documents.) In fact, when he was released, he spearheaded facilitating the program outside of state prison for recent parolees in San Mateo County. When the probation officer contacted Mr. Turk's previous parole officer for his presentence report investigation, the parole officer said that Mr. Turk was doing "well under his supervision until he relapsed" and that he "has never seen a parolee facilitate M.A.N.U.P. classes" and that Mr. Turk "can do well if he stays sober." (See PSR, para. 36.). Mr. Turk also participated in Toastmasters receiving many certificates. (See Exhibit C: Toastmaster Certificates.)

Currently, Mr. Turk has participated in as many programs in custody as possible and, while at both North County and Santa Rita, Mr. Turk was asked by the sheriff to be a pod worker for his unit. Mr. Turk was trusted by the sheriff to be able to do this job and has held it ever since without issue.

With a clear head free of drugs and properly medicated, Mr. Turk realizes that he needs to turn his life around. To be faced with a mandatory minimum sentence of ten years and realize that he has been throwing his life away was overwhelming and life-changing. Through his actions, he has shown this Court that he has the willingness and desire to change and rehabilitate himself.

This Court should also be aware that Mr. Turk understands that returning to the Bay Area to live is not an option for him and is not consistent with his commitment to leaving behind a life of drugs and crime. He is hopeful that, while he is in custody, that he can workout being released to Oregon or Idaho where he has family and can start a new life.

### VII. CRIMINAL HISTORY

As noted in the presentence report, Mr. Turk has a lengthy criminal history. However, it is also consistent with someone with a serious drug addiction issue- several drug convictions along with thefts/robberies in order to get money to buy drugs. For instance, looking at the robbery conviction in 2002, Mr. Turk made admissions to the arresting officers that he "had a drug problem" and "knew he wouldn't have to hurt anyone" (to get the money). (*See* PSR, para. 31.) Furthermore, as noted in the presentence report, the current sentence, at the mandatory minimum, is going to be significantly more than time that Mr. Turk has ever served.

### VIII. <u>CONCLUSION</u>

Mr. Turk requests that this Court impose the mandatory minimum sentence of ten years which would adequately punish Mr. Turk, reflect the seriousness of the offense, but also take into consideration his mental health disorders, drug addictions and commitment to programming. While the sentencing guidelines, based on the quantity of narcotics, are slightly higher, these factors warrant the variance under the objectives of §3553.

It is respectfully requested that Mr. Turk be sentenced to 60 months on Count One, followed by 60 months consecutive in Count 2, with a period of 5 years of supervised release and a special assessment of \$100.

Dated: July 24, 2019

Sara Rief
Attorney for Defendant
VICTOR TURK

### **EXHIBIT A**

Your Honor,

My name is Theodora Turk, mother of Victor Turk. Let me start by saying if my son didn't go back to drugs again he would not be in jail. He was really doing great when he was staying with me, He attended his classes at the parole facility in Redwood City, he graduated from there then he started to facilitate M.A.N.U.P. in Redwood City. He has many certificates from being a great speaker, great facilitator and has certificates from Toastmasters which I faxed over to his attorney.

In this capacity as a mother who will always support my son with everything in me, ask that you grant Victor a program or less time. For the past several years Victor has struggled with drug addition and has done stupid things that conflict with his normal personality which leads him back to jail. When not using narcotics Victor is an upstanding individual with integrity that loves to help people in any way possible. Victor has also been a mentor for men who have gone through rough times with substance abuse.

Victor has needed help for a long time now and owns his mistakes and really digs deep to look at himself. My son has expressed his embarrassments and feelings of shame in his need of a good treatment program because he didn't want me to know he was out of control and could not help himself. Victor thought he was strong enough to stop drugs by himself thought he had it under control without support until he realized he couldn't do it by himself! Victor has always put others first but now realizes he has to do him first now and from now on. He is honest, trustworthy, he comforts people in times of sorrow, a teacher in times of confusion. It is now time for Victor to do Victor! He has encouraged me to stay strong and always turns a negative into something positive. He really is a great person with a giving heart!

Please your Honor please consider giving my son a strong program or less time. Thank You,

Theodora TUFK (Dodie)
2314 Greendale Brive
South San Francisco, CA. 94080
650-878-4083 Home
650-784-4083 CELL

Mario Saucedo Solano AIDS Coalition 2203 Teakwood Ave Vallejo, CA 94591 June 1, 2019

### To Whom it may concern:

This letter is a statement written on behalf of Victor Turk. I first met Victor through his brother John Carter as a client in my organization The Solano AIDS Coalition. At that time Victor was looking to volunteer and support his brother in any way possible as well as give back to the community. I got to know Victor as a valuable person in this regard and learned of his character as one of upstanding and a truly caring heart for his fellow person.

While I understand you see cases like his on a regular basis, I am not asking for his to be excused for his behavior based on my own experiences or for leniency. I am asking for hope for him in recovery and a chance for redemption because he has proven before he can be a valuable member of society.

Sincerely,

Mario Saucedo

rresident / 202-450-5861

Solano AIDS Coalition





To When it may concern,

My dad has always been their forme, has been supported of me and eneoraged me to be the best i can in life.

Please concider giving my dad less time me and my family need him.

Thank you for your concideration.

I dow time

2065 Southeast

44th Avenus

Apt J 139

Hillsboro, Ore 97123

707 387 - 8361



to whom it may concern: I write this letter in prayers that you will assist my uncle in being able to do a program abd be able to be a positive influence in this world by getting less time in a sentencing ruling. He has taken a lot of initiative to Hearn while incarcerated and takes his education scriously. My uncle victor Turk has taught me to value muth and to lalways be positive so that you can create change. He has been crose to my - heart forever and I learned from him that God helps your life to be firm and to be able to support others. He is kind, Caring and will do anything for others as he makes many sacrifices for people, He puts himself before fied, and asks God what do you want from me? and he continues to always put others before himself. when he is around me I feel warm loved and I want him in my life So that he can neet my 9 month old aughter. He provides his value may Work place. family, also at his

I wish the court will decide to give him a program or less time so that he can folding that food has paved for him. Please allow him to be in our lives and volunteer In the community, go to church , be there for us, and not have to get Out when he is way older. I value and love him so much and Mychildren want to be around him and they aunlearn from him. He is great with children and everybody likes him. I know that this son loves when he is around him too and I just seek peace for his life and all of the families. Long Schences can have a sticking affect rather than healing. I wish that we don't have to be burdened Latus manner as well please consider my request and know that I will also assist with any aid that I need to. victor turk is amazing, a warner for the problems he has faced and Solved, hels precious, mighty, and a man Of fiel thank you very much.

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sincerely, Nichole E

Nichole Espinoza 4107 Samuelson Me

#A206

Sandpoint, Idaho. 83867 205-217-0512 To whom it may concern

Victor Turk is my younger Brother

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Thank you Kirlly
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6-17-2019.

To Whom It Mag Concern

I have known Victor Surk for over ten year's and when he is not on frugs, he is a very reliable person. a good worker, loyel to his family. He has always been Supportive to or their and it Seems that he puts others fust before kimSelf. Now Victor realizes he has to put himself first.

Victor would do Very well working a Program as he would like the opportunity to

Tam asking for him to be put in a good
Program or given less time.
Victor also has a good relationship with his son
and is very encouraging, supportive to him.
It anything else, I ask please give Victor less
time.

Thankfully.

Lena Strangio, 3090 Vicente St., SF. Ch 941/6 415 373-8839

To whom it may concern,

Victor TURK and I had A business relation ship. He is reliable + a great worker. Please give him A chance to perhaps do A program or less time. He's great purson when he's not on Drugs!

Soma collisia Repair

241 12TH ST

Sau FRAUCISCO, CA 94/03 415-864-3699 I am writing in reference to my brother Victor John Turk. I am saddened to find Victor incarcerated for a reoccurring issue he has battled for many years.

Victor I know has believed he could be drug free on his own for many years now. Victor finds himself recognizing he needs the help, only a program could give him. I believe without a shadow of doubt Victor could be rehabilitated to live a drug free life, with help, he will thrive. He will have the ability to speak at Man Up events which he has had accolades for being an encouragement to others. He also has accolades in Toast Masters and wants to pursue motivational speaking in the capacity of a rehabilitated drug offender. His passion and dedication to helping others is great, because prison should not be a way of life for anyone seeking rehabilitation. Victor also excels in life being on the top of his class no matter what he does. Victor is determined and strong hearted to do the right thing.

My brother is such a hardworking man. Victor is a very giving and caring individual not only for his family but the community he has been a part of for many years. The accomplishments he has had over the past years are one of being an example and a fierce leader to the youth and young men. Many times I have had conversations with Victor about his heart to serve youth and men who have drug issues, heart wanting to aide in them striving for a better life outside of drugs.

Unfortunately drugs had wreaked havoc on Victor's life. He has so much to offer and so much to give, I know if Victor had rehabilitation he would excel in all the program offers and be a light to those around him. Off drugs Victor is an amazing man.

Thank you for your time in reading my letter. I appreciate you

Angelina Espinoza

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### EXHIBIT B

State of California

Name and Number

Turk

AT-1627

15-13-4L

Inmate Turk, is a conductor for the Promoting Manhood: M.A.N.U.P. Self-Help Workshop, at CSP-Solano. As a conductor of this workshop, he is responsible for creating a safe environment for the participants to open themselves up. He is accountable to ensure that the information is explained and received. Inmate Turk has been proactive within his community, demonstrating his commitment to change. As a conductor for the M.A.N.U.P. program, he is a genuine role model for rehabilitative behavior with his willingness to go the extra mile to help himself and others. Inmate Turk, participation as a conductor has made a positive impact on those around him and is hereby commended.

Inmate Turk accumulated 12 hours participating, 24 hours in conductor training, and 48hours conducting for a total of 84 hours in the Promoting Manhood: M.A.N.U.P. Self-Help Program.

Original: Central File

cc: Inmate

Date: August 2016 - June 2017

(LAUDATORY CHRONO)

CSP-SOLANO

Sponsor

Making rational decision with precision Never giving up my seinch Uplifting myself, my tamily and my tammunity Positive living

### Personal Enhancement Program Synopsis

Program Name: Promoting Manhood: M.A.N.U.P.

Number of Sessions:

12 Weeks

10-15 Participants

Chrono-Bearing workshop

Staff Sponsors: T. Wamble, Associate Warden, N. Justin, Captain, E. Racklin CCI, D. Brida, Lieutenant

Director of Operations: T. Miles

Senior Advisor of Information: D. Rowlett

Program Founder/Director, Sean Gage, H-24509

Coordinator: Tyran Townsend, J-08276

### **Description of Program:**

M.A.N.U.P. (Making rational decisions Acting with precision Never giving up my position Uplifting myself, my family and my community Positive living) is a workshop designed to help participants recognize, define, express, and fulfill their roles and duties as men.

### Program Goal

Through discussion, role-playing, and weekly homework, participants will gain an understanding of their definition of manhood and their roles and duties to themselves, their families, and their communities. They will set the framework for creating and maintaining a pledge to M.A.N.U.P.

### M.A.N.U.P. Motto "Giving a helping hand to a fellow man."

### Means of Achievement

### **Community Wednesday**

Is designed to nurture community involvement through community events, productive members of the community as well as professional staff giving presentations of encouragement, inspiration, and testimonials of experience. This demonstrates to participants that others care about their success while providing examples that participants may see first-hand. In addition, Graduations, presentations and certifications are received in the presence of administrative staff assist men in receiving affirmation and validation that their pledge is one acceptable to society as a whole.

Weeks 1 - 4 focuses on recognizing healthy and unhealthy aspects of participant's definitions of manhood. Topics include Responsibility, Awareness, Accountability, Perception, and Expressing thoughts and feelings.

Weeks 5 - 8 focuses on uncovering why participants display unhealthy aspects of their definition of a "Man" and ways to transform that behavior. Topics include Decision Making, Stopping and Preventing Self-Sabotage, Entitlement Levels, Self-Esteem, Confidence, Forgiveness, and Nurturing.

Weeks 9 - 12 focuses on participants writing and presenting individual pledges to M.A.N.U.P.

reace, Power and Positivity

relping others. I happen to be one of the men the prison population to help themselves by Help Program (IBSHP). She then called upon hat took up her call help. AW Young named it The In Building Selfision of men helping themselves through selfziate Warden K. Young began to institute her 2011... In California State Prison Solano, Asso-

M.A.N.U.P. Is about never giving up the posibout the rational decision. The Nin in it, we act on it, by taking the steps to bring verything begins from taking the time to ion of the rational decision that was made. lecision is made, we do not continue to think nake a rational decision, Once that rational veigh out the options that we have in order to ny family and my community, Positive living.) Vever giving up my position, Uplifting myself, **lational Decisions, Acting with precision,** romoting Manhood: M.A.N.U.P. (Making

> uplifting ourselves, from there we work towards upthings we will be living positive. So when we say decision that we make. As we do the M.A.N. we are their quest to know-themselves, express themtional decisions first. "suck it up" we are insuring that we are Making ra-M.A.N.U.P. Or W.O.M.A.N.U.P. we are not saying lifting our family and community, in doing all of these

most importantly to heal. and confidence. After years of participating in and there was a commonality between incarcerated and non-incarcerated men when it comes to expressing difficult it was for men to express themselves. Paying neath the surface in order to do all of the above and ourselves. Through M.A.N.U.P., we began to go beattention to the Men that I know in society, I found facilitating self-help groups, I began to notice how signed to aid men in defining, understanding and In 2012... Promoting Manhood: M.A.N.U.P. was deexpressing their definition of manhood with respect

pand. The intention is to start a non-profit organiza-In 2013... The vision for the workshop began to extion, designed to help men; young and old alike in

aid in reaching our goals.

ve never give up the position of the rational

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are that want to halls, Caunty Jails and Prisons. Wherever men (Mosques), Churches, Group Homes, Juvenile selves, and uplift themselves, their families, and available in the streets, schools, Masjids and their community. The goal is to be present

M.A.N.U.P. we want to be

from the women in their lives whom they share with. We have several different workshops to their experiences, assignments and homework due to the reaction some of the men receive munity, Positive living.) This has come about tion, Uplifting myself, my family and my com-Acting with precision, Never giving up my posithe process designing W.O.M.A.N.U.P. Because women are so cru-(Woman Observing Making Rational Decisions, cial in family and community building, I am in there to help. 

Charles Constant

TURK AT-1627 15-13-4-L

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Com-Solomo

Hereby Acknowledges:

## Authority of

focusing on Self-Awareness, Positive Thinking, Accountability, Self Expression and Responsibility. This certificate is to recognize and acknowledge your participation in the 12-week workshop

/Indation

N. Justin

T. Wamble

Captain/Sportson Associate Warden Captain/Sponsor

On this date August 12, 2015

### **EXHIBIT C**





# **フィビトス**



TOASTMASTERS

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